



COMMONWEALTH of VIRGINIA
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November 29, 2004

The Honorable Robert G. Burnley, Director
Virginia Department of Environmental Quality
629 East Main Street
Richmond, Virginia 23219

Re: Authority to Promulgate Water Quality Management Planning Regulation, 9 VAC 25-720, Final

Dear Director Burnley:

I have reviewed the above-referenced regulation. It is my opinion that the State Water Control Board has authority to promulgate the regulation under applicable law, including Chapter 3.1 of Title 62.1 of the Code of Virginia. Based upon your agency's representations, it is also my view that under Va. Code § 2.2-4006.A.4(c) the regulations are excluded from Article 2 of the Virginia Administrative Process Act because they are necessary to meet the requirements of federal regulations.

If I may be of any further assistance to you relating to this matter, please do not hesitate to contact me.

Sincerely,

Cathie F. Hutchins
Assistant Attorney General
Environmental Unit

cc: Ellen Gilinsky
Cindy Berndt